* Case No. 91-314-A Petitioners

* * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a front yard setback of 21 feet in lieu of the minimum required 32.5 feet and a rear yard setback of 17 feet in lieu of the required 30 feet for a proposed single family dwelling in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. Appearing as an interested party was Frank Bruno. There were no Protestants at the hearing.

Testimony indicated that the subject property, known as 6430 Hazelwood Avenue, consists of .638 acres zoned D.R. 5.5 and is currently unimproved. Petitioners are desirous of constructing a single family dwelling on the subject site as indicated on Petitioner's Exhibit 1. Testimony indicated that the subject property is triangular in shape and contains utility easements on both its north and south sides. Due to the topography of the land and the location of the utility easements thereon, the relief requested is necessary in order to develop the property with a single family residence. Petitioners testified they would suffer an undue Shardship and practical difficulty if strict compliance with setback requirements were required.

Frank Bruno testified that he resides at 640/ Hazelwood Avenue, **5** 5 a west of the subject site. Mr. Bruno testified that he did not want the property to be developed commercially and indicated he fully supports the construction of a single family home on the subject site.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

ORDERED by the Zoning Commissioner for Baltimore County this Buday of April, 1991 that the Petition for Zoning Variance to permit a front yard setback of 27 feet in lieu of the minimum required 32.5 feet and a rear yard setback of 17 feet in lieu of the required 30 feet for a proposed single family dwelling, in accordance with

- 2-

Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief grant-

> 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

> 2) Petitioners shall not allow or cause the proposed dwelling or any part thereof to be converted to a second dwelling unit and/or apartments.

> 3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

JRH:bjs

for Baltimore County

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

April 15, 1991

Mr. & Mrs. Theodore J. Dupack, Jr. 1011 Foxcroft Lane Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE N/S Hazelwood Avenue, 48' W of the c/l of Wintergreen Road (6430 Hazelwood Avenue) 14th Election District - 5th Councilmanic District Theodore J. Dupack, Jr., et ux - Petitioners Case No. 91-314-A

Dear Mr. & Mrs. Dupack:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

for Baltimore County

cc: Mr. Frank Bruno 6407 Hazelwood Avenue, Baltimore, Md. 21237

Mr. Robert W. Nagle 6513 Hazelwood Avenue, Baltimore, Md. 21237

People's Counsel

File

Hearing Date: Monday, and

Veriance: to allow a front yard setback of 27 feet and a reer yard setback of 17 feet in lieu of the minimum required 32.5 feet front yard average and 30 feet, respec-tively.

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1, 303.1 To allow a front yard setback of 27 ft. and a rear yard setback of 17 ft. in lieu of the minimum required 32.5 ft. front yard average and 30 ft., respectively

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) MEDELLULAR TELANIGULAR SHAPE OF SITE, PERUIPED SETENCES AND EXTENSIVE EASEPHENTS PROTESE A PRACTICAL DEFICULTY OF KINIHAL BUILDABLE AFFA ON THE SITE TO ACCOMINGDATE A PESIDENCE

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this NE VF petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm, 7
under the penalties of perjury, that I/we/-3-92 are the legal owner(s) of the property which is the subject of this Petition. Legal Owner(s): Contract Purchaser: MR THEODORE J. DIRACK G.J. (Type or Print Name) (Type or Print Name) Theodise & Trushide frame HPS GENEILH DUPACIC Serve M Repack

City and State Attorney for Petitioner: - 1011 FOXCEST LAME 391-215C (Type or Print Name) Batte 100 2122!

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day To that the subject matter of this petition be advertised, as required by the Zoming Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning out Baltimore County, that property be posted, and that the public hearing be had before the Zoning out Baltimore County in Room 106, County Office Building in Towson, Baltimore County in Room 106, County Office Building in Towson, Baltimore day of March, 1991, at 9:30 o'clock

ESTIMATED LENGTH OF HEARING -1/2HR. 41HR. AMAILADLE FOR HEARING Soning Commissioner of Baltimore County. MOR./TUES./WED. - MEXT TWO MORTHS

C OTHER

ETHING DESCRIPTION TO DOCHEMNY PETITION FOR ZOWING, 273

PEGINNING AT A POINT ON THE NORTH SIDE OF HAZELWOOD AVENUE WHICH IS GO'WIDE AT THE DISTANCE OF 48' WEST OF THE CENTERLINE OF THE NEAREST IMPROVED INTERSECTING STREET WINTERSPEEN PLACE WHICH IS 80 WIDE. AS RECORDED IN DEED HIBER 7737, FOLIO 243 WITH HETES AND BOUNDS AS FOLLOWS 5 01°46' 50' E 24.91', 569°23' 50" E 406.29', N 00'32'33" W 113.49', N 79° 35'50"W 212.61', R=470.00' Chd N82'32'20'W 424 TO THE PLACE OF BEGINNING, CONTAINING, 6385 ACKES, ALSO KLIGHT AS 6430 HAZELWOOD AVENUE BALTIMORE, MARYLAND 21237 AND LOCATED IN THE #14 ELECTION DISTRICT.

TOWNS DEPARTMENT OF BALTIMORE COUNTY

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Date of Posting 3/1/9)
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Date of return: 3/7/9/

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published

THE JEFFERSONIAN,

\$ 70.76

CERTIFICATE OF PUBLICATION HOTROE OF HEAVENS

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md. _successive weeks, the first publication appearing

> NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

receipt

MRS. Geneil M. Dupack

#35. of filing fee Residential Variance for 6430 Hazel wood Ave.

04AD4#Q056HICHRC ocks Payable Te: Baltimore Ppinty)10:05AH()1-04-91

Account: R-001-6150 Number

9-1 - E E STY PARTE

GURLIC HEARING FEES OIT - TONING VARIANCE STREY 1 / 1 / 105.00 (n) (4L+ = \$05.00) LAST NAME OF GUNER: BURACK JR

Please Make Checks Payable To: Baltimore County

receipt

Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150 Number

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Please Make Checks Payable To: Baltimore County()()9:04Ah03-25-01

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Office of Planning and Zoning

Baltimore County Government Zoning Commissioner

111 West Chesapeake Avenue Towson, MD 21204

887-3353

Mr. & Mrs. Theodore J. Dupack, Jr. 1011 Foxcroft Lame Baltimore, Maryland 21221

N/S Hazelwood Avenue, 48' W of c/l Wintergreen Road 6430 Hazelwood Avenue 14th Election District - 5th Councilmanic Petitioner(s): Theodore J. Dupak, Jr., et ux HEARING: MONDAY, MARCH 25, 1991 at 9:30 a.m.

Dear Petitioner(s):

Please be advised that \$95.76 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

February 21, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public bearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-314-A N/S Hazelwood Avenue, 48' W of c/l Wintergreen Road 6430 Hazelwood Avenue 14th Election District - 5th Councilmanic Petitioner(s): Theodore J. Dupak, Jr., et ux HEARING: MONDAY, MARCH 25, 1991 at 9:30 a.m.

Variance to allow a front yard setback of 27 feet and a rear yard setback of 17 feet in lieu of the minimum required 32.5 feet front yard average and 30 feet, respectively.

I. Robert Source

Zoning Commissioner of Baltimore County

cc: Mr. & Mrs. Theodore J. Dupack, Jr.

Baltimore County Government Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

March 18, 1991

Mr. & Mrs. Theodore J. Dupack, Jr. 1011 Foxcroft Lane Baltimore, MD 21221

> RE: Item No. 272, Case No. 91-314-A Petitioner: Theodore J. Dupack, et ux Petition for Zoning Variance

Dear Mr. & Mrs. Dupack:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Zoning Plans Advisory Committee

Enclosures

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 23rd day of January, 1990.

> J. ROBERT HAINES ZONING COMMISSIONER

Petitioner: Theodore J. Dupack, et ux Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines

DATE: February 20, 1991

received

Zoning Commissioner

SUBJECT: Theodore J. Dupack, Jr., Item No. 272

Office of Planni g and Zoning

Pat Keller, Deputy Director

In reference to the applicant's requested variance, staff

offers the following comment: The proposed dwelling size appears to be excessive and inappropriate for the size and configuration of this lot. Additionally, the proposed development would be incompatible with the existing built

Therefore, staff recommends that the petitioner scale down the size of the dwelling to ensure compatibility with the homes located within the immediate vicinity.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

environment.

ITEM272/ZAC1

Baltimore County Government
Department of Public Works Bureau of Traffic Engineering

401 Bosley Avenue Suite 405 Towson, MD 21204

Fax 887-5784

February 19, 1991

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 266, 268, 270, 272 and 274.

> For Michael S. Flanigan Traffic Engineer Associate II

MSF/lab

Baltimore County Government Fire Department

(301) 887-4500

JANUARY 18, 1991

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building

RE: Property Owner:

Location:

Towson, MD 21204

700 East Joppa Road Suite 901 Towson, MD 21204-5500

THEODORE J. DUPAK, JR.

#6430 HAZELWOOD AVENUE

Item No.: 272

Zoning Agenda: JANUARY 22, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Catt Jan Helly 1-22-91 Approved Fire Prevention Bureau Special Inspection Division

JK/KEK

received

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: January 23, 1991
FROM: Robert W. Bowling, F.E.

RE: Zoning Advisory Committee Meeting for January 22, 1991

The Developers Engineering Division has reviewed the subject soning items and we have no comments for Items 266, 270, and 274.

For Items 263, 275, 276 and 277, the previous County Review Group Comments are still applicable.

For Item 272, the driveway location shown would require the relocation of Fele #140031. Also, an extension of the public sanitary sever in Ellipseed Road or Hazelwood Avenue may be required to serve this property.

ROPERT W. POWLING, P.E., Chief Developers Engineering Division

RWB : 8

6513 Hazelwood Avenue Baltimore, Maryland 21237 March 20, 1991

Zoning Commissioner 111 W. Chesapeake Avenue Room 113 Towson, Maryland 21204

Attention: Mr. J. Robert Haines

Zoning appeal

Case # 91-314 A

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Hearing date March 25, 1991 @ 9:30 A.M.

ZUNING OFFICE

Dear Sir:

The subject case is posted on a property across the street from my house.

The object of the hearing is to change current zoning laws by way of exception to this property.

I am away on business the date of this hearing, and can only voice my objection and that of our neighborhood by way of this letter.

I have lived at 6513 Hazelwood Ave. for 31 years. We have watched land willed to a church, for a church, become a shopping center. The owner who died and left her farm to the church with a no sale provision in the will thought a church would be built on her property, this church turned around and leased the land for 99 years to entrepreneurs who then built the Kenwood Shopping Center.

Now we are faced with another blight to our neighborhood. The present setback zoning requirement is a good one and should not be changed so a contractor can make more money. He is not adversely changing his neighborhood but ours. The reason the current setbacks were put in have not changed. To change the zoning would deface the appearance of our neighborhood and result in lower property values.

We respectfully request the present zoning law remain intact.

Sincerely,

D.R. 16

D.R

ZONING MAP TO ACCOMPANY FETTION FOR ZONING

VACIANCE

SHEET! 4F N.E.

Petitioners Exhibits Thotographs in lave-91-314-A























